

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ANNE E. BAKKEN,

Plaintiff,

v.

MERRICK MANAGEMENT GROUP, LLC,

Defendant.

ORDER

11-cv-332-bbc

Plaintiff Anne E. Bakken brought this civil suit against defendant Merrick Management Group, LLC under the Family and Medical Leave Act. 29 U.S.C. §§ 2601-2654. Defendant has filed a motion for summary judgment. Dkt. #15. Both parties are relying on the terms of defendant's short-term disability policy issued by Mutual of Omaha Insurance Company. However, neither party submitted the policy. Although both parties filed declarations describing the terms of the policy, Merrick Decl., dkt. #20, at ¶ 7; Morris Decl., dkt. #18, at ¶ 14; Bakken Decl., dkt. #22, at ¶ 2, these declarations are inadmissible because they violate the best evidence rule. Fed. R. Evid. 1002; Dye v. U.S., 360 F.3d 744, 750 (7th Cir. 2004). Because plaintiff bears the burden of proof, I will give plaintiff two days to submit the policy in order to properly support its proposed finding of fact. Fed. R. Civ. P. 56(e)(1).

ORDER

IT IS ORDERED that plaintiff Anne E. Bakken has until May 25, 2012 to file with the court defendant Merrick Management Group, LLC's short-term disability policy issued by Mutual of Omaha Insurance Company; if plaintiff does not submit the policy by that time, the court will disregard the proposed findings of fact.

Entered this 23rd day of May, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge